

Adulteration of the article was alleged in the libels for the reason that it consisted in part of a filthy, decomposed, or putrid vegetable substance.

On August 30, 1932, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20044. Adulteration and misbranding of feed. U.S. v. The Kansas Mill & Elevator Co. Plea of guilty. Fine, \$75 and costs. (F. & D. No. 28088. I.S. Nos. 36354, 36355.)**

This action was based on the interstate shipment of quantities of a product represented to consist of gray wheat shorts with wheat screenings, containing 5.5 percent of crude fiber, and which upon examination was found to consist of wheat brown shorts and wheat screenings containing more than the declared amount of fiber.

On May 28, 1932, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Kansas Mill & Elevator Co., a corporation, Arkansas City, Kans., alleging shipment by said company in violation of the Food and Drugs Act, in part on or about August 8, 1931, and in part on or about August 15, 1931, from the State of Kansas into the State of Missouri, of quantities of feed that was adulterated and misbranded. The article was labeled in part: (Tag) "Gray Wheat Shorts with Wheat Screenings \* \* \* Fibre, not more than 5.5% \* \* \* Manufactured By The Kansas Mill & Elevator Company \* \* \* Arkansas City, Kans."

It was alleged in the information that the article was adulterated in that brown shorts with wheat screenings containing more than 5.5 percent of fiber had been substituted for gray wheat shorts with wheat screenings containing 5.5 percent of fiber, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Gray Wheat Shorts with Wheat Screenings" and "Fibre, not more than 5.5%", borne on the tags, were false and misleading, and for the further reason that the article was so labeled as to deceive and mislead the purchaser, since it was not gray wheat shorts with wheat screenings containing 5.5 percent of fiber, but was brown wheat shorts with wheat screenings containing more than 5.5 percent of fiber.

On August 15, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$75 and costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20045. Misbranding of canned cherries. U.S. v. Certain Cases of Canned Cherries. Consent decree of condemnation. Product released under bond. (F. & D. No. 27948. I.S. Nos. 32197, 32198, 32199, 32552, 32553, 32554. S. No. 5998.)**

This action involved the shipment of a quantity of canned cherries which, upon examination, were found to be water-packed, and which were not labeled with a statement prescribed by the Secretary of Agriculture to show such fact. Sample cans taken from one of the lots were found to contain less than the declared weight.

On May 25, 1932, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 792 cases of canned cherries, remaining in the original unbroken packages at Colby, Kans., alleging that the article had been shipped in interstate commerce on or about September 26, 1931, by the Colorado Packing Plant, from Canon City, Colo., to Colby, Kans., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled in part: (Case) "Tiller Brand Cherries"; (can) "Tiller Brand \* \* \* Distributed by The Symns Grocer Co., Atchison, Concordia, Colby, Kansas." The remainder was labeled in part: (Case) "Symns Brand Cherries"; (can) "Symns Brand Packed for the Symns Grocer Company, Atchison, Kansas, Contents 1 Lb. 5 Ozs."

Misbranding was alleged in the libel with respect to both lots for the reason that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, and its package or label did not

bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard. Misbranding was alleged with respect to a portion of the product for the further reason that the statement on the label, "Contents 1 pound 5 ounces," was false and misleading, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was incorrect.

On August 18, 1932, the Symns-Shafer Mercantile Co., Colby, Kans., having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered by the court that the product be released to the said claimant upon the execution of a bond in the sum of \$200, conditioned that it is relabeled, that the product should not be disposed of in violation of the Federal Food and Drugs Act, and that claimant pay costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20046. Adulteration of canned prunes. U.S. v. National Fruit Canning Co. Pleas of guilty. Total fines, \$20 and costs. (F. & D. Nos. 27528, 27529. I.S. Nos. 11004, 18226.)**

These cases were based on the shipment of quantities of canned prunes, samples of which were found to be decomposed.

On September 9, 1932, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid two informations against the National Fruit Canning Co., a corporation, trading at Seattle, Wash., charging violation of the Food and Drugs Act. It was alleged in the informations that the defendant company had shipped, on or about November 15, 1930, from Sherwood, Oreg., consigned to itself at Seattle, Wash., a quantity of canned prunes that were adulterated, and had shipped on or about November 26, 1930, from Seattle, Wash., via New Orleans, La., to Ottumwa, Iowa., a quantity of canned prunes that were also adulterated. A portion of the article was labeled in part: (Cans) "Real Fruit Brand Packed by National Fruit Canning Co. Seattle-Wash. Italian Prunes." The remainder were labeled: "WIPSO."

Adulteration of the article was alleged in the informations for the reason that it consisted in whole and in part of a filthy, decomposed, and putrid vegetable substance.

On September 27, 1932, the defendant company entered a plea of guilty to each information, and the court imposed fines and costs totaling \$20.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20047. Adulteration of bluefins. U.S. v. 3 Boxes of Bluefins, et al. Consent decrees of destruction entered. (F. & D. Nos. 28501, 28549, 28654. Sample Nos. 5842-A, 5849-A, 15414-A.)**

These cases involved shipments of fish that were found to be infested with worms.

On July 22 and August 12, 1932, the United States attorney for the Eastern District of Kentucky, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of six boxes of bluefins at Covington, Ky. On July 29, 1932, the United States attorney for the Western District of Pennsylvania filed a libel against seven boxes of bluefins at Pittsburgh, Pa. The product covered by the said libels had been shipped in interstate commerce by the Hogstad Fish Co., Duluth, Minn., between the dates of July 18, 1932 and August 8, 1932. The libels alleged that the article had been shipped from Duluth, Minn., into the States of Kentucky and Pennsylvania, and that it was adulterated in violation of the Food and Drugs Act. Portions of the article were labeled in part: "Dr. Bluefins from Hogstad Fish Co., Duluth, Minn." The remainder was labeled in part: "Dressed Bluefins."

Adulteration of the article was alleged in the libels for the reason that it consisted wholly or in part of a filthy, decomposed, or putrid animal substance, and for the further reason that it consisted of portions of animals unfit for food.

On July 22, August 1, and August 12, 1932, by consent of the consignees, decrees were entered ordering that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*